

Jesse Merrithew, OSB No. 074564

Email: jesse@lmhlegal.com

Viktoria Lo, OSB No. 175487

Email: viktoria@lmhlegal.com

Levi Merrithew Horst PC

610 SW Alder Street, Suite 415

Portland, Oregon 97205

Telephone: (971) 229-1241

Juan C. Chavez, OSB No. 136428

Email: jchavez@ojrc.info

Alex Meggitt, OSB No. 174131

Email: ameggitt@ojrc.info

Franz H. Bruggemeier, OSB No. 163533

Email: fbruggemeier@ojrc.info

Oregon Justice Resource Center

PO Box 5248

Portland, OR 97208

Telephone: 503 944-2270

J. Ashlee Albies, OSB No. 051846

Email: ashlee@albiesstark.com

Whitney B. Stark, OSB No. 090350

Email: whitney@albiesstark.com

Maya Rinta, OSB No. 195058

Email: maya@albiesstark.com

Albies, Stark & Guerriero

1 SW Columbia St. Suite 1850

Portland, Oregon 97204

Telephone: (503) 308-4770

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.,

Plaintiffs,

vs.

CITY OF PORTLAND,

Defendant.

Case No. 3:20-cv-00917-HZ

**DECLARATION OF VIKTORIA LO IN
SUPPORT OF PLAINTIFF'S MOTION
FOR ATTORNEY FEES AND COSTS**

I, Viktoria Lo, declare as follows pursuant to 28 USC § 1746:

DECLARATION OF VIKTORIA LO IN SUPPORT OF PLAINTIFF'S
MOTION FOR ATTORNEY FEES AND COSTS- 1
(Case No. 3:20-cv-00917-HZ)

LEVI MERRITHEW HORST PC
610 SW ALDER ST. SUITE 415
PORTLAND, OR 97205
T: 971.229.1241 | F: 971.544.7092

1. I am one of the attorneys representing Don't Shoot Portland and the individual plaintiffs in this case.

2. I have been licensed to practice law since 2017. I am a member in good standing of the Oregon State Bar and the District Court for the District of Oregon.

3. I graduated from Harvard Law School in 2017 with honors. Prior to law school I was a Fulbright scholar for two years in South Korea and prior to that I graduated *summa cum laude* from Transylvania University in 2012.

4. During law school I represented clients in court, immigration proceedings, and department of corrections disciplinary hearings through my work as a student legal worker in the Harvard Criminal Justice Institute, Harvard Immigration and Refugee Clinic, and Harvard Prison Legal Assistance Project. I also held legal internship positions requiring in-depth legal research and writing at the California Office of Attorney General Civil Rights Division, the Gay and Lesbian Advocates and Defenders in Boston and at a plaintiff's civil rights firm, Sanford, Heisler, Kimpel LLP in San Francisco. I spent my 2L summer as a certified law student at the Metropolitan Public Defender's office ("MPD"), where I prepared multiple cases for trial, including writing legal motions, conducting investigations, client interviews, and discovery review.

5. I spent the first year and a half of my legal career as a staff attorney public defender at MPD. During my time at MPD, I regularly represented clients in pre-trial proceedings such as arraignments, release hearings, pre-trial motions *in limine*, probation violations hearings, and many other types of proceedings. During my time at MPD I litigated many motions to suppress and had many trials, including completing about a dozen jury trials to verdict.

6. In 2019 I joined Levi Merrithew Horst, PC (“LMH”) as an associate attorney in criminal defense and civil rights. Since joining LMH, I have had jury trials in serious felony cases including a Ballot Measure 11 case in state court, a murder trial in state court, and helping to defend a family in a jurisdictional dependency trial. In 2019, Maya Rinta and I co-chaired a jury trial in a criminal case resulting from a protest, resulting in a not-guilty verdict for our client. I have also spent significant time representing clients on administrative appeals for Department of Human Services (“DHS”) founded abuse assessments, including doing fact investigation and drafting lengthy letters for DHS review. I have had success on every single DHS appeal I filed.

7. Since joining LMH I have been a member of the National Police Accountability Project, the National Lawyers’ Guild (“NLG”), and the Oregon Trial Lawyers Association. Through my membership in these organizations, I regularly attend CLEs, conferences, and meetings focused on learning the skills necessary for civil rights work. I am also a member of the Oregon Criminal Defense Lawyer’s Association and have joined a working group to draft legislative advocacy materials regarding the DHS Child Welfare investigations. I am one of the two supervising attorneys for the NLG’s Legal Observer Program. As part of that role, I helped draft materials for and conduct trainings for legal observers. I have also given several know-your-rights teaching presentations to groups of citizens interested in attending protests.

8. Since joining LMH I have spent about half of my worktime on the firm’s civil rights cases. I have been responsible for drafting complaints, conducting discovery review, researching and writing legal motions, participating in mediations, conferrals, and negotiations with opposing counsel, and presenting arguments to the federal court in many civil rights cases over the last four years at LMH. In the last four years, I have attended CLEs and conducted legal research and

writing in the areas of constitutional law, 1983, qualified immunity, and *Monell*. I have received praise from my colleagues and co-counsel regarding my legal research and writing, oral advocacy, and trauma-informed and empathetic client representation skills.

9. I have been the firm's primary responsible counsel on several 1983 cases since including:

- a. *Aaron Cantu, James Mattox, and Tracy Molina v. City of Portland, et al.*, 3:19-cv-01606-SB (D. Or. 2019);
- b. *Sean Colby Hoard v. J. Hartman, et al.*, 2:13-cv-02161-BR (D. Or. 2020);
- c. *Dale Pennie v. Correct Care Solutions, et al.*, 6:21-cv-00252-AA (D. Or. 2021);
- d. *Meghan Oprook v. City of Portland, et al.*, 3:22-cv-00610-JR (D. Or. 2022).

10. In early June of 2020, I met with the other co-counsel on this case and agreed to help represent Don't Shoot Portland in a District Court lawsuit seeking a Temporary Restraining Order and injunction after we learned that the Portland Police Bureau ("PPB") was using massive amounts of tear gas on crowds of Black Lives Matter protesters. I agreed to represent Don't Shoot Portland in this case to attempt to bring compliance of constitutional use of force standards by the PPB.

11. My standard rate on criminal retained cases is \$325 per hour, and my rate on civil cases is \$375 per hour. This rate is consistent with the depth and breadth of my experience in both trial work, direct-client representation, and legal research and writing. I billed \$375 an hour in this case consistent with my usual hourly rate and based on my firm's assessment of the risks involved in taking this matter on a contingent basis.

12. Attached to the Declaration of J. Ashlee Albies as Exhibit 1 is a true and correct copy of my billable hours. I have reviewed the time records contained in Exhibit 1 and it accurately

reflects the hours and work that I performed in this case. I recorded my time for work done on this case contemporaneously with doing the actual work.

13. Since June of 2020, I have spent approximately 226 hours on this case. To date, I have not been paid any fees for my services. My co-counsel and I worked cooperatively and efficiently, dividing up tasks and avoiding duplication of work. Due to the complexity of this case, my co-counsel and I had to meet regularly to discuss strategy, share ideas and feedback, efficiently divide tasks, and to understand my role in the litigation. I had a substantial role in discovery review and strategy and monitoring the police's response to the ongoing demonstrations including to ensure compliance with the TRO.

14. My claimed rate here is within the range of rates charged by lawyers with the same number of years of experience according to the Oregon State Bar's *2017 Economic Survey*, when those rates are adjusted for inflation. While the survey lacks specificity regarding the civil rights practice area involved here, nonetheless, the guidelines gleaned from the survey for 2016 hourly billing rates show the 75th and 95th percentiles for attorneys in private practice in Portland with 4-6 years of experience is \$300/hour and \$350/hour, and the 75th and 95th percentiles for attorneys representing individuals in civil litigation (excluding personal injury matters) is \$300/hour and \$500/hour. When adjusting the 2016 Survey rates for inflation using the Bureau of Labor Statistics CPO Inflation calculator, the 75th and 95th percentile hourly rates for attorneys in private practice in Portland with 4-6 years of experience are \$368 and \$430 for the year 2022.¹

¹ The 2017 Bar survey was conducted from August to October of 2017, but the survey requested information from 2016. *See* Ex. B, pp. 38- 43 (reflecting hourly rates for the year 2016). As such, our inflation calculations use the time inputs of December 2016 to December 2022.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED this 3rd day of February, 2023.

By: s/ Viktoria Lo
Viktoria Lo, OSB No. 175487
Of Attorneys for Plaintiffs